THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6604 of 2006

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DATED:03-04-2006

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BETWEEN

S.K.Rahamen.

…PETITIONER

AND

The State of AP, rep. by its Principal Secretary,
Municipal & Urban Development Department,

Secretariat, Hyderabad and others.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6604 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in marking the petitioner's premises bearing No.8-2-44/4, Nehru Market,

Bhadrachalam, Khammam District, for the purpose of road widening and trying to demolish the same without following the procedure under the Land Acquisition Act, as illegal and arbitrary.

The case of the petitioner is that he is the absolute owner and possessor of the above said premises situated at Nehru Market, Bhadrachalam, Khammam District and is residing in the said premises more than one decade by paying house tax, electricity and water charges. It is stated that on 31.03.2006 the employees of the respondents visited the premises of the petitioner and marked his premises and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioner submits that for the purpose of widening the road the respondents earmarked the structures belonging to the petitioner and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioner has not encroached any road and he has constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the

property of the petitioner and not to dispossess him without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 03-04-2006

sj